DETAILED ACTION

Acknowledgements

1.   This action is in reply to the Amendment filed on March 3, 2010.

2.   Claims 1-21 are pending.

3.   Claims 1-13 were previously withdrawn.

4.   Claims 14-21 have been examined.

5.   This Office Action is given Paper No. 20100605 for references purposes only.

Specification

6.   In light of Applicant's amendments, the former objection is withdrawn.

Claim Objections

7.   In light of Applicant's amendments, the former objection is withdrawn.

Claim Rejections - 35 USC § 101

8.   In light of Applicant's amendments, the former rejections regarding claims 19-21

are withdrawn (please see claim interpretation below for definition of server).

Claim Rejections - 35 USC § 112, 2nd paragraph

9.   In light of Applicant's amendments, the former rejection regarding claims 14-18 is

withdrawn.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

11.   Claims 14-15 and 19-21 are rejected under 35 U.S.C. § 103(a) as being

unpatentable over Leung et al. (US 2006/0150257) in view of Simelius (US

2005/0071278).

Claims 14, 19, 20, 21

12.   Leung discloses the following limitations:

        a.   a first server (license server, see abstract, figure 1, [0037]) for supplying

        the main license (digital license, see abstract, figure 1, [0037]) to the content

        processing apparatus (device, see abstract, figure 1, [0037]) over the network.

13.   Leung does not disclose the following limitations:

        b.   A second server... network.

14.   Simelius discloses the following limitations:

        c.   a second server (first parent client, see [0049-0050, 0054]) for supplying

        the encrypted content (first digital content, see [0049-0050]) encrypted with the

first key (encryption key of first parent client, see [0049-0050]), and a license

information file including the sub license (child voucher, see [0054], figure 2)

encrypted with the second key (public encryption key associated with first child

client, see [0054]) and license type identification information (access information,

see [0115]) for identifying the sub license corresponding to a type of viewing

(view the first digital content, see [0115]) to the content processing apparatus

(first child client, see [0054]) over the network.

15.   It would have been obvious to one of ordinary skill in the art at the time of the

invention to combine Leung with Simelius because 1) a need exists for an enforcement

architecture and method that allows the controlled rendering or playing of arbitrary

forms of digital content, where such control is flexible and definable by the content

owner of such digital content (Leung [0008]); and 2) a need exists for a flexible

distribution of digital content that protects from unauthorized use or copying (Simelius

[0006]). Having the second server supply encrypted content and a sublicense ensures

that each computing device ordering a particular digital content has a separate license,

thus effectively limiting the fast distribution of content throughout a plurality of computing

devices (Simelius [0003]).

Claim 15

16.   Leung in view of Simelius discloses all the limitations above.   Furthermore,

Leung discloses the following limitations:

     d.   the license type identification information (instructions/rules, see [0040-0042, 0052]) is to discriminate between a sub license for preview (preview information, see [0040-0042, 0052]) and a sub license for actual viewing (license to view content, see [0040-0042, 0052]).

17.   Claims 16-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leung, in view of Simelius, and further in view of Official Notice.

Claim 16

18.   Leung in view of Simelius discloses all the limitations above. Furthermore, Leung discloses the following limitations:

     e.   the second server supplies the encrypted content (encrypted content), encrypted preview sub license (encrypted rules), encrypted actual-viewing sub license (sub-license) and a license information file including license type identification information (instructions/rules) to the content processing apparatus over the network (see figure 1, abstract, [0037, 0040-0042, 0052, 0062-0064]).

19.   Leung does not disclose the following limitations:

     f.   license type identification information discriminates between the encrypted preview and encrypted actual-viewing sub licenses; and

     g.   the second supplying means supplies all this data as a MPEG-2 transport stream.

20.   Examiner takes **Official Notice** that it is old and well known in the licensing arts that licenses can distinguish between previewing and actual-viewing licenses.

21.   Examiner takes **Official Notice** that it is old and well known in the computer arts that data can be streamed in different formats.

22.   It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leung, in view of Simelius, to show license type identification information discriminates between the encrypted preview and encrypted actual-viewing sub licenses because Leung already discloses instructions/rules accompanying the content, which may include formatted license acquisition script and preview information (see Leung abstract, [0037, 0040-0042, 0052]).   A suggestion exists that the identification information (i.e. instructions/rules) discriminate between the encrypted preview and encrypted actual-viewing sub licenses because the instructions/rules already identify terms and conditions (e.g. preview) of how to view the content (see [0040-0042, 0052]).

23.   Additionally, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leung, in view of Simelius, to show the second supplying means supplies all this data as a MPEG-2 transport stream because Leung already discloses various output formats and multiple streams (see Leung [0062-0064]).   A suggestion exists to use a MPEG-2 transport stream because various output formats may assist in delivering content to the user (see [0062]).

24.   It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Leung with Simelius because 1) a need exists for an enforcement

architecture and method that allows the controlled rendering or playing of arbitrary forms of digital content, where such control is flexible and definable by the content owner of such digital content (Leung [0008]); and 2) a need exists for a flexible distribution of digital content that protects from unauthorized use or copying (Simelius [0006]). Discriminating between the encrypted preview and encrypted actual-viewing sub licenses ensures limiting the fast distribution of content throughout a plurality of computing devices (Simelius [0003]).

Claim 17

25.   Leung, in view of Simelius and Official Notice, discloses all the limitations above. Furthermore, Leung discloses the following limitations:

       h.   data compression and various compressed formats (see [0046, 0051, 0062]).

26.   Leung does not disclose the following limitations:

       i.   the license information file is ECM.

27.   Examiner takes **Official Notice** that it is old and well known in the computer arts that license information files can be ECM.

28.   It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Leung, in view of Simelius, to show the license information file is ECM because Leung already discloses data compression and various compressed formats (see [0046, 0051, 0062]). A suggestion exists to have the license information

file as ECM because various output formats may assist in delivering content to the user (see [0046, 0051, 0062]).

29.   It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Leung with Simelius because 1) a need exists for an enforcement architecture and method that allows the controlled rendering or playing of arbitrary forms of digital content, where such control is flexible and definable by the content owner of such digital content (Leung [0008]); and 2) a need exists for a flexible distribution of digital content that protects from unauthorized use or copying (Simelius [0006]). Having the license information file as ECM allows for various output formats, which may assist in delivering content to the user (see Leung [0046, 0051, 0062]).

Claim 18

30.   Leung, in view of Simelius and Official Notice, discloses all the limitations above.

Furthermore, Leung discloses the following limitations:

j.   the second server supplies the MPEG-2 transport stream by multicasting (multi streaming, see [0062-0064]) to the content processing apparatus over the network.

Response to Arguments

31.   Applicant argues that Leung does not disclose "a second server for supplying the encrypted content encrypted with the first key, and a license information file including the sub license encrypted with the second key and license type identification information

for identifying the sub license corresponding to a type of viewing to the content

processing apparatus over the network" (Amendment p 13). This argument is moot in

light of the new art above.

Claim Interpretation

32.   After careful review of the original specification and unless expressly noted

otherwise by Examiner, Examiner concludes that Applicant is not his own lexicographer.

See MPEP § 2111.01 IV.

33.   Examiner hereby adopts the following definitions under the broadest reasonable

interpretation standard. In accordance with *In re Morris*, 127 F.3d 1048, 1056, 44

USPQ2d 1023, 1029 (Fed. Cir. 1997), Examiner points to these other sources to

support his interpretation of the claims.[1] Additionally, these definitions are only a guide

to claim terminology since claim terms must be interpreted in context of the surrounding

claim language. Finally, the following list is not intended to be exhaustive in any way:

   k.   *computer* "Any machine that does three things: accepts structured input,

   processes it according to prescribed rules, and produces the results as output."

   Computer Dictionary, 3rd Edition, Microsoft Press, Redmond, WA, 1997;

   l.   *network* "(3) (A) (software) An interconnected or interrelated group of

   nodes." IEEE 100 The Authoritative Dictionary of IEEE Standards Terms, 7th

   Edition, IEEE, Inc., New York, NY, Dec. 2000;

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[1] While most definitions are cited because these terms are found in the claims, Examiner may have
provided additional definition(s) to help interpret words, phrases, or concepts found in the definitions
themselves or in the prior art.

      m.   ***server*** "2. On the Internet or other network, a computer or program that responds to commands from a client." <u>Computer Dictionary</u>, 3rd Edition, Microsoft Press, Redmond, WA, 1997.

34.   In light of Applicants' choice to pursue product claims (claims 14-18, 20-21), Applicants are reminded that functional recitation(s) using the word and/or phrases "for", "adapted to", or other functional language (*e.g.* see claims 14, 20, and 21 which recite "identification information for identifying") have been considered but are given little patentable weight because they fail to add any structural limitations and are thereby regarded as intended use language. To be especially clear, all limitations have been considered. However, a recitation of the intended use of the claimed product must result in a structural difference between the claimed product and the prior art in order to patentably distinguish the claimed product from the prior art. If the prior art structure is capable of performing the intended use, then it reads on the claimed limitation. *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) ("The manner or method in which such a machine is to be utilized is not germane to the issue of patentability of the machine itself."); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). See also MPEP §§ 31.06 II (*C.*), 2114 and 2115. Unless expressly noted otherwise by the Examiner, the claim interpretation principles in the paragraph apply to all claims currently pending.

Conclusion

35.   Applicant's amendment filed on March 3, 2010 necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

36.   A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

37.   Because this application is now final, Applicant is reminded of the USPTO's after final practice as discussed in MPEP §714.12 and §714.13 and that entry of amendments after final is *not* a matter of right. "The refusal of an examiner to enter an amendment after final rejection of claims is a matter of discretion." *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1529 (Fed. Cir. 2002) (citations omitted). Furthermore, suggestions or examples of claim language provided by Examiner are just that—suggestions or examples—and do not constitute a formal requirement mandated by Examiner. Unless stated otherwise by an express indication that a claim is "allowed," exemplary claim language provided by Examiner to overcome a particular rejection or to change claim interpretation has *not been addressed* with respect to other aspects of patentability (*e.g.* §101 patentable subject matter, §112, 1st paragraph written description and enablement, §112, 2nd paragraph indefiniteness, and §102 and §103,

prior art). Therefore, any claim amendment submitted under 37 C.F.R. §1.116 that incorporates an Examiner suggestion or example or simply changes claim interpretation will nevertheless require further consideration and/or search and a patentability determination as noted above.

38.   Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to Chrystina Zelaskiewicz whose telephone number is 571.270.3940. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached at 571.272.6779.

39.   Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Chrystina Zelaskiewicz/
Examiner, Art Unit 3621
June 5, 2010

/ANDREW J. FISCHER/
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